

APR 21 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: David C. Paul, *et al.*
Appl. No. 10/762,533
Filed: January 23, 2004
For: SPINE STABILIZATION SYSTEM

Atty. Docket: 0218.002.0003
Art Unit: 3732
Examiner: P. Philogene
Confirmation No.: 5342

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the following correspondence for Application No. 10/762,533 is being facsimile transmitted to the United States Patent and Trademark Office at (703) 872-9306 (official fax number) on April 21, 2005.

1. Certificate of Transmission (1 page)
2. Petition for Extension of Time for one month (1 page)
3. Response to Advisory Action (1 page)
4. Terminal Disclaimer (1 page)

Total Pages Submitted: 4



Brian J. Malm, Reg. No. 44,895

Atty. Docket No. 0218.002.00003
U.S. Serial No. 10/762,533

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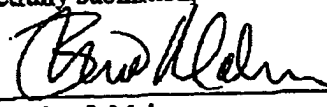
RESPONSE TO ADVISORY ACTION AND SUBMISSION OF TERMINAL
DISCLAIMER

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P.O. Box 1450
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Sir:

In response to the advisory action mailed April 13, 2005, Applicants submit herewith a Terminal Disclaimer for entry and consideration during the examination of the above-identified application. Applicants believe that the Terminal Disclaimer overcomes the only rejections remaining and that the claims are in condition for allowance. If the Examiner believes that the present submission still does not resolve all of the issues regarding patentability of the pending claims, Applicants invite the Examiner to contact the undersigned attorneys to discuss any remaining issues. Fees for (1) a one month extension of time of \$60 and (2) a Terminal Disclaimer of \$65 are believed to be due for this submission. Please charge such fees, or any other fees which may be required for this submission, to CMFB PLLC Deposit Account No. 50-3120.

Respectfully submitted,

By 
Brian J. Malm
Registration No. 44,895

Date April 21, 2005
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PTO/SB/25 (09-04)

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TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING "REFERENCE" APPLICATION

Docket Number (Optional)
0216.002.0003

In re Application of: David C. Paul et al.
Application No.: 10/782,533
Filed: January 23, 2004
For: Spine Stabilization System

The owner, Globus Medical, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/443,755 filed on May 23, 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent granted on the pending reference application: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

- 1 For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

- 2 The undersigned is an attorney or agent of record. Reg. No. 44,895

Brian J. Malm Reg. No. 44,895 April 21, 2005
Signature Date

Brian J. Malm
Typed or printed name

202-478-5300
Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/95 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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